

# EXHIBIT 2

## Analysis of Individual Master File in Support of Request for Amendment of Individual Master File for Barry S. Ford

The information set forth herein explains both the legal basis for this request and factual details regarding the codes and related indicators posted in error to the Requestor's Individual Master File and substantiates the validity of the Requestor's request for amendment.

### Privacy Act of 1974

This Request for Amendment/Correction of the Internal Revenue Service (IRS) records is based upon the Privacy Act of 1974, (5 USC §552a (d)(2)(A) and (B) and (d)(3)) and 31 CFR Part 1, Subpart C, Appendix B and §1.27 (regulations issued by the Office of Management and Budget) and is submitted in accordance with the procedures set forth in the IRS Disclosure of Official Information Handbook, Chapter 18, titled Privacy Act Access and Amendment of Records. Subsection (e) of Section 552a of the Privacy Act of 1974 requires all federal agencies that maintain systems of records on individuals to publish descriptions of those systems in the Federal Register.

The Privacy Act of 1974 specifically grants an individual the affirmative right to request the amendment or eradication of inaccurate, irrelevant, untimely or incomplete information contained in any system of records maintained by any agency of the United States Government or any Government-chartered corporation. If the "systems manager" responsible for maintaining the system of records refuses the request, internal appellate procedures are available within the agency that provide access to the head of the agency. The IRS Handbook provides for appellate access to the Assistant Commissioner, 5 U.S.C. §552a(d)(2)(B); see Harper v. Kobelinski, 589 F.2d 721 (D.D.C. 1978) for enforcement action.

Remedy for enforcement actions is found in the United States District Court, see Clarkson v. Internal Revenue Service, 678 F.2d 1368 (11<sup>th</sup> Cir. 1982), Smierka v. U.S. Treasury Dept. (IRS), 447 F.Supp. 22 (1978). Both civil remedies and criminal penalties are provided for agency violations of the Privacy Act, 5 U.S.C. §552a(g) and (l) 1976.

Requestor asserts that an individual right to privacy, including privacy of information, is not merely a right granted by Congress; it is rather a God given natural right guaranteed by the Bill of Rights, Articles I through VIII, and several well-known decisions of the Supreme Court of the United States. See Katz v. United States, 389 U.S. 347 (1967), Right to Privacy found in the Fourth Amendment.

### Individual Master File (IMF)

The IMF is contained within the systems of records titled "Treasury/IRS 24.030". The IRS utilizes the IMF as the tool to verify the IRS procedures for assessments of tax and claims the IMF as an accurate tool in compliance with Section 6203 of the Internal Revenue Code, 26 U.S.C. §6203 and with 26 CFR 301.6203.

The July 22, 1985 Federal Register, 50 F.R. 29816, published descriptions of the systems of records maintained by the IRS on individuals at page 29826 states:

"Treasury/IRS 24.030 Individual Master File (IMF); Returns and Information Processing."

The published description of the Individual Master Files states:

“Taxpayer entity records in and tax modular records which contain all records relative to specific tax returns for each applicable tax period or year ----- Recorded here are tax transactions such as tax amount, additions, abatelements of tax payments, interest and like transactions recorded relative to each tax module.”

The 1996 Internal Revenue Manual MT 3000-353, entitled “**IMF Operations**”, contains a clear and comprehensive description of the IMF at page 30(55)0-4 Section 2; “Concept of Individual Master File (IMF)” which reads:

- (1) “The Individual Master File is a magnetic tape record of all individual income tax filers, in Social Security Number sequence, and is maintained at the Martinsburg Computing Center. All tax data and related information pertaining to individual income taxpayers are posted to the Individual Master File so that the file reflects a continuously updated and current record of each taxpayer’s account. All settlements with taxpayers are effected through computer processing of the Individual Master File account and the data therein is used for accounting records, for issuance of refund checks, bills or notices, answering inquiries, classifying returns for audit, preparing reports and other matters concerned with the processing and enforcement activities of the Internal Revenue Service.”

The IMF is the record of final authority utilized by the IRS examiners, collection officers and enforcement personnel seeking reliable taxpayer and tax return information. The information is posted in and collated by the IRS’s master computer. IRS individual tax assessment figures are also compiled from data posted to the IMF.

IRM 3.17.63.9.2 "Account Series 1200 IMF Accounts Receivable"  
3.17.63.9.2 (10-01-2001)

“Account 1200 IMF, Accounts Receivable:

1. “The net total of this receivable account will represent the total taxes assessed and unpaid on the Individual Master File. Included in this account are individual taxpayer accounts in Notice Status, Installment Status, TDA Status and those individual taxpayer accounts on which collection has been temporarily suspended by a hold code.
2. “External Subsidiary is those taxpayer accounts, in debit balance status, on the master file.
3. “Data input will be updated by electronic transmission.”

The April 1982 IRS “Handbook for Special Agents”, at page 9781-51, and currently on the [irs.gov](http://irs.gov) website at IRM 9.4.4.2.1.3 (01-30-2001) describes the intent and function of the IMF:

334.112 The Individual Master File

- (1) “The Individual Master File is a magnetic tape record of all individual income tax filers, in Social Security Number sequence, and is maintained at the National Computer Center. All tax data and related information pertaining to individual income taxpayers are posted to the Individual Master File so that the file reflects a continuously updated and current record of each taxpayer’s account. All settlements with taxpayers are effected through computer processing of the Individual Master File account and the data therein is used for accounting records, for issuance of refund checks, bills or notices, answering inquires, classifying returns for audit, preparing reports and other matters concerned with the processing and enforcement activities of

the Internal Revenue Service.

- (a) Design – The Individual Master File is designed to accumulate in each taxpayer's account all data pertaining to the income taxes for which the taxpayer is liable. The account is further sectionalized into separate tax periods (tax modules) each reflecting the balance, status, and transactions applicable to the specific tax period. This includes the returns filed, assessments, debit and credit transactions, and all changes made to the filed tax return. The returns filed include Income Tax Forms 1040, 1040A, 1040NR, 1040C, 1040SS, 1040PR, and Estimated Tax Returns 1040ES. (The Form 1040A was not in use January 1, 1970 through December 31, 1972.) Forms 1040C, 1040SS, and 1040PR posted to the Master File beginning January 1, 1971; Form 1040NR beginning January 1, 1973.
- (b) Taxpayer Accounts – Each taxpayer account has an entity module and one or more tax modules.
- (c) Entity Module – The entity module contains data which describes the taxpayer as an entity and which applies to all records of the taxpayer. This entity module contains groups of data including name, address, etc.
- (d) Tax Modules – A tax module contains records of tax liability and accounting information pertaining to the income tax for one tax period. Each tax module contains group of data including balance due amounts, refund checks sent, and other accounting information relating to a specific tax period.”

The taxpayer information stored in the master computer and recorded in a particular IMF is encoded and, upon retrieval, may be decoded only by those thoroughly familiar with the IRS 6209 Manual, IMF Operations Manual, Law Enforcement Manual and other manuals published for the instruction and guidance of specific IRS personnel.

The Director of the National Computer Center in Martinsburg, West Virginia maintains this system of IMF records on magnetic tapes. Data taken from the magnetic tapes maintained by the IRS Computer Center is frequently used in federal court tax litigation to establish such basic facts as an individual's assessed tax liability for a particular year by the preparation and introduction in evidence of a “Certificate of Assessments and Payments”. See U.S. v. Buford 889 F.2d 1406, 5<sup>th</sup> Circuit 1989, in which an IRS records custodian testified that she had prepared a “Certificate of Assessments and Payments”, Form 4340, solely from computer generated data taken from the defendant's Individual Master File.<sup>1</sup>

There are three main divisions of IMF records. They are titled “**IMF MCC TRANSCRIPT-COMplete**”, “**IMF MCC TRANSCRIPT-SPECIFIC**” and “**IMF MCC TRANSCRIPT-LITERAL**”.

According to the IRC, the IRS manuals and statutes, the **IMF MCC TRANSCRIPT-COMplete** is required to contain all tax information pertaining to an individual. This

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<sup>1</sup> As noted, IMF data is utilized by the IRS and the Department of Justice and is purported to be in compliance with the assessment requirements set forth in § 6203 of the Internal Revenue Code and with the Treasury Regulations (26 CFR § 301.6203). The unreliability of an IRS “Certificate of Assessments and Payments” was demonstrated in Blackston v. United States, 778 F.Supp. 244 (D. Md.1991), where the court commented upon the irregularities in IRS computer evidence. Are we approaching the time in our highly automated society where an individual accused of a tax violation can be sent to jail by a computer? Have such “automated”(and automatic) convictions in fact not already occurred? Can such Orwellian results be tolerated in a Constitutional Republic governed by a Bill of Rights guaranteeing the accused the right to confront and cross-examine his accusers?

transcript-complete should contain the individual's entire tax history starting with the very first return and continuing through to the individual's current filing and entries by the IRS. The Transcript Complete is subdivided into three sections, **Entity Module**, **Transaction Section** and **Notice History Section**.

Some of the codes posted to the IMF will appear in two or all three sections and may appear multiple times within a single section. The three sections – Entity, Transaction and Notice History - interrelate and must correspond accurately, otherwise the information would cause an “unpostable” message and would be rejected by the computer. For example, the Mail Filing Requirement, MFR, will be posted to the Entity Module. The MFR identifies the specific form to be mailed to the taxpayer for taxpayer is to complete and file. The Transaction Section contains Document Locator Numbers. When IRS receives the taxpayer's return, the date and form number are entered as specific Document Codes, which are a component of the Document Locator Number. Also within the Transaction Section, there is a computer field, “F/C”, which will identify whether any Schedules F or C were filed with the taxpayer's return, which will be shown as a digit behind the “F/C” coding; i.e., “F/C-1”.

Another example of the Entity Module and Transaction Section interrelationship concerns the Form 1040. An MFR-05 indicates that a Form 1040 Business Package with Schedules A, B, C, D, E and F are required to be attached to the return. The MFR-04 is a 1040 non-business return and does not require all the Schedules. The MFR-04 code would be shown in the Entity Module. The correlating Transaction section entry for a non-business return would be Document Code 11 or 12; for a Business Package it would be a Document Code 21 or 22. The Document Code 21 identifies a Form 1040 Business Package “not fully paid” and a Document Code 22 identifies a “fully paid” Form 1040 Business Package. “Fully paid” indicates there is no outstanding tax obligation due. The computer field “F/C-1” would also be posted indicating that either a Schedule F or C was attached to the filed return. The computer software has been programmed to verify that correlating entries occur between the Entity and Transaction Sections. This verification of correlating entries is unique to the IMF system and is not a component of the Integrated Data Retrieval System, IDRS, or other computer records such as a Non-Master File.<sup>2</sup>

1. The **Entity Module** contains information pertaining to the taxpayer such as name, address, social security number (SSN), filing requirements, status information, employment information, prior name, AKA's, last return filed, account condition, freeze conditions, Power of Attorney, etc. The Entity Module appears once in the beginning of an IMF MCC TRANSCRIPT-COMplete and in the beginning of each tax year on the IMF MCC TRANSCRIPT-SPECIFIC and relates to the specific tax year posted within the transcript.
2. “The Entity Module contains data which describes the **taxpayer as an entity**<sup>3</sup> and which applies to all records of the taxpayer. Detailed processes for establishing and maintaining the Entity Module are contained in Project 439 (IMF Account Numbers). This entity module contains groups of data which are maintained in separate sections...” (*Emphasis Added*) See Internal Revenue Manual MT 3000-353, entitled “**IMF Operations**”, page 30 (55) 0-4 section 2.

<sup>2</sup> “A non-master file account established on AIMS, Audit Information Management System, is not subject to many of the same computer checks of a master file account. A non-master file account can be established on AIMS with incorrect information because the account information is not compared to a computer file, such as is with Master File, or the manual ledger account cards at the service center.” (See AIMS IR Manual 48(13)1-128 at Exhibit 400-4 (2-14-89).

<sup>3</sup> The new taxpayer “entity” is created by the IRS, as differentiated from the individual.



3. The **Transaction Section** sets forth all the various individual taxpayer transactions that are posted concerning filed returns, amended returns, payments, overpayments, estimated payments, withholding payments, refunds, examination transactions, audits, freeze conditions, additions to tax, penalties, abatement, deficiencies, etc.
4. The **Notice History Section** contains the number and date of any notices IRS issued, whether internal or actually mailed to the taxpayer.

The **IMF MCC TRANSCRIPT-SPECIFIC** contains tax information concerning specific tax years. Most information posted within the Transcript Specific is the same as found within the Transcript-Complete; however, the Entity Module contained within the Transcript Complete contains more descriptive text. The Transaction Section and the Notice History Section should contain identical information as in the Transcript Complete.

The **IMF MCC TRANSCRIPT-LITERAL** contains some, but not all, of the posted internal codes found on the IMF pertaining to the individual taxpayer. This transcript is written in layman terms; however, not all the codes posted to the individual's Transcript-Complete and Transcript-Specific are transcribed within the Transcript-Literal. Thus, the later is of very limited usefulness.

### **Requestor's IMF**

The Requestor's record is titled **IMF MCC TRANSCRIPT-COMPLETE** pertaining to Barry S. Ford, dated 04-25-2005, and all files subordinate are derived from the Transcript-Complete.

### **Errors in the IMF Requiring Amendment or Expungement**

The IRS computer record, the Requestor's IMF, contains a number of significant errors that must be immediately corrected or totally expunged. A full explanation of these foregoing codes, including legal authorities and other points of authority, are set forth below. Some of the more significant errors are:

1. VAL-1, Permanent Invalid SSN Freeze
2. Justification-1, Invalid Account treated as valid
3. MFR-05, Mail Filing Requirement
4. Transaction Code 971, Data fraudulently posted to incorrect Taxpayer Identification Number (TIN)
5. Transaction Code 425, Evidences Invalid Segment of IMF
6. Transaction Code 140, Evidence of a Substitute For Return
7. SFR 150, Substitute For Return, Evidences Computer Fraud
8. Activity Code 532, Activity with Federal nexus.

### **1. Permanent Invalid Social Security Number Freeze, "VAL-1"**

There is a VAL-1 code posted to the Entity Module of the Requestor's IMF, which means that the Requestor's entire IMF record is invalid.

The "VAL -1" code that annually is posted to the Requestor's IMF has been entered in the invalid segment each and every year since 1986<sup>4</sup>, as found on page 0001 of the IMF transcript.

<sup>4</sup> VAL-1 is a code that signifies a temporary release of the permanent invalid SSN freeze (VAL "0" or VAL [blank]) and as hereinafter explained, the figure "1" may be substituted for the "0" or the [blank] only where;

The definition of the validity code “1” is found within the following IRS cites:

**IRM 3.13.5.2.8 (01-01-2003)** states:

- “1. The IMF is structured into two major segments “valid and invalid.”
2. The valid and invalid segments are structured in the same manner...”

**IRM 3.13.5.2.10 (01-01-2003)** states:

“If the TIN and name control were added this quarter, the transaction will be given a **validity digit of “1”** and **directed** to the **invalid segment** of the IMF for posting”  
(*Emphasis Added*)

The Government Accounting Office stated:

**[http://www.unclefed.com/GAOReports/ggd95-148\\_sum.html](http://www.unclefed.com/GAOReports/ggd95-148_sum.html)**

“GAO found that: (1) the average annual growth rate for **invalid IMF accounts** was significant from 1986 through 1994; (2) IRS has revised its procedures to require taxpayers with missing or incorrect SSN or temporary numbers to provide documentation that verifies their identity; (3) these revised procedures could help reduce the number of **invalid IMF accounts** when fully implemented; (4) the IRS Tax Modernization System is in jeopardy because the current master file structure allows two or more taxpayers to have accounts under the same number, or one taxpayer to have several accounts under different numbers; (5) the IRS income-matching program is hampered by posting returns to **IMF invalid accounts**;...” (*Emphasis Added*)

The GAO statement is conclusive evidence that the IRS has been fully aware of these issues concerning invalid accounts for years. However, the IRS has failed to protect the Requestor from these erroneous entries, as shown on the Requestor’s IMF in the Invalid Segment.

The IMF computer program contains an internal system of validity checks. On the Requestor’s IMF, the most prominent and most significant of these validity checks is a **permanent** posting to the computer field described as “VAL-1” which is defined in IRS manuals as the “Invalid Social Security Number Freeze.”<sup>5</sup> This code, which appears as a permanent freeze in the Entity Module each and every year since 1986 is of utmost importance. It refers, of course, to an “invalid” SSN.

From a study of the Requestor’s IMF, several IRS instruction manuals and IRC §6109, it is clear that an accurate SSN is the foundation upon which all of an individual’s system of records (IMF) is created.<sup>6</sup> See 26 U.S.C. §6109(a)(1) and (d), 26 CFR 1.6109-1.

The VAL-1 code means that: the “Invalid SSN Freeze has been released by transaction code TC 290 or 300 or Scrambled SSN Indicator of ‘2’...” and, “The SSN is not valid for the taxpayer using it.” However, there are no transaction codes of 290 or 300 that have been timely posted for each tax year of this Requestor’s IMF record. There is also no “Indicator of 2”, which causes the inference that the computer software has been manipulated in order to post the VAL-1 code. See Document 6209 Manual Chapter 13, page 28 at item 12, and Law Enforcement Manual 3(27)(68)0-7, attached hereto.

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(1) a Form 5716 request has been sent to the National Office, **and**

(2) a code TC 290 or TC 300 or a Scrambled SSN indicator of “2” is posted on the IMF.

<sup>5</sup> See Exhibit 2, IR Manual 3500 at page 0-57.

<sup>6</sup> See Exhibit 2, Law Enforcement Manual III at page 0-7.

Consequently, all subsequent entries posted are erroneous because the SSN is invalid for the tax years posted to this IMF. The Requestor has not received any notice of any problems or discrepancies in this SSN from the Social Security Administration and, in fact, the number used on the IMF record matches the Requestor's correct SSN.

In spite of the fact that the Requestor's IMF record is permanently frozen because of the invalid SSN, IRS continues to use the record and to post transactions to it every year, in violation of 5 U.S.C. §§552a(e) (5) and (6). The VAL-1 indicator establishes not only that the Entity Module is erroneous, but that all other IMF tax records/transactions of the Requestor are also in error because these tax records cannot exist if the Entity Module is invalid. The paradox is that the current inaccurate IMF postings correspond to an invalid SSN for this Requestor, a situation which should prevent further record entries to the Requestor's IMF; yet, new postings have occurred which are direct evidence of the discrepancy with the interrelated section information and should have generated an "unpostable" message and should have been rejected by the computer. The inclusion of additional postings demonstrates an obvious software glitch or intentional override of the program parameters.

The SSN is supposed to be accurate and correlate to the taxpayer's records. Entry of the SSN onto the IRS computer system sends an immediate message to the master computer to identify and classify the taxpayer under its programmed guidelines. If the taxpayer's SSN is "invalid", then the IMF and all subordinate records maintained by the IRS are likewise inaccurate, invalid and unusable. The same is true of IRS information shared with other governmental agencies including the Social Security Administration. 26 U.S.C. §6109(a)(1) and (d).

Another apparent programmed application of the SSN from the IMF is the classification of individuals under federal revenue statutes. If the master computer is unable to associate the individual with any tax that is claimed to be owed, (e.g. an excise tax, a gift tax, a withholding tax, a payroll tax, a payment of estimated income tax), the computer automatically directs the IMF account to the invalid segment of the IMF and generates a permanent posting freeze on the account. Because of the permanent nature of the freeze code, according to the IRS rules and **U.S. vs Buford**, nothing else should be able to be added to the individual's IMF except by a carefully prescribed procedure described hereinafter.

Two statements appearing in IRS manuals highlight the importance of a correct and valid SSN as a means of identifying and classifying individuals. The IRS Law Enforcement Manual describes the SSN as:

"The nine-digit social security number assigned by the Social Security Administration to all individuals required to file individual returns."<sup>7</sup>

"...All returns and transactions processed must contain the taxpayer's correct social security number." (*Emphasis Added*)<sup>8</sup>

Similarly, the IRS 3000 Manual, entitled "IMF Operations", states that the SSN must be validated and all transactions posted consistent with all established validity checks (including the "validity check" known as the INVALID SOCIAL SECURITY NUMBER FREEZE).<sup>9</sup> The IRS 3500 Manual makes clear that, if Item 20 in the Entity Module of the IMF is blank or shows a

<sup>7</sup> Law Enforcement Manual, 3(27)(68)0-7. The clear implication of this statement is that not everyone is required to obtain a social security number and not everyone is required to file income tax returns.

<sup>8</sup> Law Enforcement Manual, 3(27)(68)2.2.

<sup>9</sup> MT 3000 (IMF Operations), page 30(55)0-6 section 3.2 and page 30(55)0-10 section 6.1

zero, the INVALID SOCIAL SECURITY NUMBER FREEZE is in effect.<sup>10</sup> Hence, the computerized system of records known as the IMF is keyed to a correct and validly used social security number

The word “freeze” is self-explanatory. In common usage the word means, “to fix, to prohibit further use of, to render inoperative.” If something is frozen, nothing can happen to change it while the “freeze” is in place.

In its IMF Operations manual the IRS has explained the usage of the term “freeze” for information processing purposes:

“Each account or module on the IMF can be initialized with indicators so that specific types of freeze and hold conditions will prevail. The possible conditions are: **1) freezes refund**, (2) freezes offset in, and/or (3) freezes offset out. (Following each indicator and brief comments listed below, the conditions applicable to each will be listed in parenthesis along with the Accounts Register Codes.)” (*Emphasis Added*)<sup>11</sup>

The Internal Revenue Manual, MT 3000, again speaks of freezes:

“ENTITY FREEZE;<sup>12</sup>

- (1) Entity Freeze – specific transactions are resequenced (1, 2, 3).
- (2) Erroneous Refund TC 844 – D.O. in entity (1, 2, 3, U).
- (3) **Invalid SSN** (1). (*Emphasis Added*)
- (4) Offset Overflow- ...”

The significance of a freeze code appearing on an IMF was explained by IRS records custodian Marsha Boatright in testimony given at United States v. Buford (supra) trial. Based upon her testimony, the Court of Appeals for the Fifth Circuit described a freeze code as follows:

“Freeze Code. – A code placed in the IMF indicating that a tax return, if filed, should be rejected. Thus, if a freeze code is in the IMF, an individual can file a return and the computer will, even so, show that none was filed.”<sup>13</sup>

Since the Requestor’s IMF shows a freeze code for each and every year since 1986 (INVALID SOCIAL SECURITY NUMBER FREEZE), it clearly indicates a permanent freeze on the Requestor’s IMF and, yet, numerous transactional postings have occurred each tax year, in violation of IRS’s own rules and computer program parameters.

The Requestor has never received notification from the IRS that the Requestor was using an incorrect SSN on tax return forms. If the Requestor unknowingly has persistently used an incorrect identification number (SSN) in filing Individual Income Tax Returns, common sense would dictate that the IRS would either notify Requestor of an error or refuse to accept the returns and other documents until the SSN conflict is resolved.

Perhaps the following statement found in the IRS Law Enforcement Manual sheds some important light on this puzzling matter:

“The SSN is not valid for the taxpayer using it.” (*Emphasis Added*)

The above quote does not state that the Social Security Administration erroneously issued an

<sup>10</sup> MT 3500 at page 35(65)0-56, 57.

<sup>11</sup> Internal Revenue Manual, MT 30(55)(16) (1-1-96), “IMF MODULE FREEZES and HOLDS”

<sup>12</sup> Internal Revenue Manual, MT 30(55)(16).2, “ENTITY FREEZE”

<sup>13</sup> United States v. Buford, supra, at page 1410, footnote 4. The apparent reason for the rejection of the return was not that the return was late or lost but that it was never supposed to have been filed in the first place.



incorrect or an “invalid” SSN. The IRS freeze, as previously explained, indicates that the SSN is not valid for the Requestor, although, the IRS sends tax return forms to the Requestor with the invalid SSN printed on the tax forms. If the SSN is not valid for the Requestor, the only other inference available is that the Requestor must not be a taxpayer and therefore it is an invalid identifier. If the SSN is not valid for the Requestor and the Requestor is not a taxpayer, then all alleged tax obligations reflected on the IMF must be corrected.

The Requestor assumed that he was a “taxpayer” and used what IRS has classified as an invalid SSN on returns since 1986. IRS failed to notify the Requestor that the SSN was invalid, no tax for any taxable activity was due, and that the master computer was rejecting all entries, as evidenced by the VAL-1 entries.<sup>14</sup> The computer seems to have been programmed to impose a FREEZE on the Requestor’s entire account, a total, permanent freeze for each and every year, but has failed to block all further entries.

A permanent freeze on an IMF mandates a prohibition to posting any information. Logically, this prohibition must prevent any data from being entered on the Requestor’s IMF – not even a change to name, address, social security number, return filings or anything else. This IMF should show no transactions after the account is frozen. But the Requestor’s IMF does contain additional transactions after the original VAL-1 entry. Numerous transactions (much of them erroneous) have been posted to Requestor’s IMF in violation both of the IRS master computer’s permanent freeze and Title 5 USC §552a(e)(5) and (6).<sup>15</sup>

If transactions are to be made to a “Frozen” IMF record, the IRS manuals stipulate that a temporary release of the VAL-1 freeze can only be authorized by two specific conditions:

- (1) A Form 5716 must be sent by the examiner to the National Office of the IRS requesting written permission to post a release code to the individual’s IMF which temporarily releases the freeze:

“If this field is identified as an error, service center Exam processing will refer the problem to the service center User Support Unit to prepare a Form 5716, Systems Production Evaluation Report, to be sent to National Office AIMS programming section.”

- (2) Either a TC 290, a TC 300 or a Scrambled SSN of “2” must be posted to the IMF once permission is received by the examiner from the National Office. To achieve a temporary release one of these three codes must appear on the IMF:

Invalid SSN Freeze has been released by TC 290 or 300 or Scrambled SSN Indicator of “2”. This release is effective during the current calendar year only.”

Unless both of the above conditions are satisfied, the permanent invalid SSN freeze remains in effect and no transactions can be posted to the IMF. Compliance with both of the foregoing conditions is required to permit even a brief temporary release of the freeze.

Instead of following the two internally mandated requirements, it appears that the master

<sup>14</sup> That is to say Requestor was never Subject to the Tax.

<sup>15</sup> Section 552a. Records maintained on individuals. (e) Agency Requirements. - Each agency that maintains a system of records shall...(5) maintain all records which are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination...(6) prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to subsection (b)(2) of this section, make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for agency purposes;

computer software has been willfully manipulated by IRS to accommodate the posting of numerous entries on the Requestor's IMF erroneously. This software manipulation was achieved by the regular annual use of the VAL-1 as a release indicator.<sup>16</sup> The absence of or untimely posting of a TC 290 or a TC 300 or a Scrambled SSN indicator of "2", as well as the apparent absence of a Form 5716, should have prevented any further posting to Requestor's IMF.

The evidence in the Requestor's IMF is conclusive that neither of the above-described conditions was met.<sup>17</sup> There are no codes TC 290 or TC 300 nor a Scrambled SSN code of "2" posted to Requestor's IMF. Therefore, the permanent Invalid SSN Freeze is still active, it has never been released, even temporarily, and all items and entries posted to Requestor's IMF are in error. The Requestor requires that these erroneous transactions be totally expunged from the IMF. See VAL Attachments.

## 2. **Justification – 1: Invalid Account Treated as Valid.**

This internal code as posted to this IMF account is defined within the current Internal Revenue Manual at 3.13.5.8.12.1 (01-01-2001) and reads at 3(B) as follows:

"When the 'Justification indicator of '1' is present, the account is treated as valid."  
(*Emphasis Added*)

The word "treat" is commonly used to describe a condition that is contrary to fact. To "treat" something as if it were valid clearly establishes the contrary. The Requestor's entire IMF record substantiates the invalidity or impropriety of the computerized process being applied by the IRS to Requestor's IMF. A careful reading of the Internal Revenue Manual yields no other conclusion.

The foregoing definition of the Justification indicator of '1' confirms that all transactions posted to the Requestor's IMF record are in error as these transactions were posted to an invalid account that is merely being treated as if it were valid when, in fact, it is not. This "Justification-1" posted to the Requestor's IMF confirms the existence of a fundamentally fatal flaw in the master record that demonstrates the invalidity of the IMF record including all postings thereto since Requestor's first filing of a Form 1040.

The language of the IRS Manual makes it abundantly clear that the Requestor's tax account with the IRS is fundamentally flawed and should have been cancelled from the filing of the first tax return.

The Internal Revenue Manual, at Section 3.13.5.8.16.2 (01-01-2003), reads:

"For IRS to validate an account, input must be made to the account (with the new name) which is posted on the invalid segment of Master File."

"To validate the name of a taxpayer, whose account must be established (TC 000) on the MF, the following data is needed. See Figure 3.13.5-30.

- A. Input CC ENMOD, then overlay with CC ENREQR to bring up CC IRCHG.
- B. Document code 63 will generate.
- C. Justification indicator "1".

<sup>16</sup> MT 3500 at page 35(65)0-57

<sup>17</sup> Requestor hereby requests the production of any Form 5716 that may have been submitted to the National Office.

- D. New name control.
- E. Primary name.
- F. Address.
- G. Year name line.
- H. Transaction code 000.
- I. Filing status.
- J. Enter your reason for the change in the remark's field, then transmit.”

The new name control is described within Figure 3.13.5-30 of the Internal Revenue Manual that identifies the first four letters of Requestor's last name to be the new name control.

The Figure 3.13.5-30 also posts the following:

- 1. Document Code 63.
- 2. Justification Code 1.
- 3. Transaction Code 000.
- 4. Remarks>Establish and Validate New TP Entity.

In order to establish a New Taxpayer Entity, the foregoing internal codes must be posted. The following identifies and describes these codes.

- 1. The Document Code 63 as posted to an IMF pertains to one of two forms. The ADP IDRS Document 6209 identifies these two forms at pages 2-10 and 2-12 as Form 2363, Master File Entity Change and Form 3912, Taxpayer SSN Validation.
- 2. The Justification Code 1 as posted to an IMF causes the New Taxpayer Entity to be treated as valid.
- 3. The Transaction Code 000 as posted to an IMF is defined within the ADP IDRS Document 6209 at page 8-1 reads:

“Adds a new taxpayer entity to the applicable Master File. IMF— Establishes Scrambled SSN Indicator.”

As shown within its definition, this TC 000 also establishes a Scrambled Social Security Number Indicator to be posted to the IMF account. A Scrambled Social Security Number is identified on an IMF by the computer filed “SCS-1”. This SCS-1 is defined within the ADP IDRS Document 6209 at page 13-28:

“1—Scrambled SSN Indicator (two taxpayers using the SSN)”

This confirms that the new taxpayer entity established by the IRS at the time of the Requestor's first filing was a fictitious entity. No authorization was knowingly given by Requestor for this event to occur nor has there been authorization established by law. This further conclusive evidence that all of the internal codes posted to the IMF are devoid of any legal authority and therefore all postings must be immediately removed from Requestor's IMF as a matter of law. See “Justification” Attachment.

### 3. **Mail Filing Requirement, MFR-01**

Mail Filing Requirement, MFR-01, this code is posted to the IMF pertaining to Requestor and is defined as not required to file Form 1040, within the ADP IDRS Document 6209.<sup>18</sup>

<sup>18</sup> IRS Manual, ADP IDRS Document 6209 at Page 8-72.

This code (MFR-01) is incorrect, and should be expunged from the master record for two reasons:

- (1) Posting this code on the Requestor's IMF contravenes the Invalid Social Security Number Freeze and, in so doing, violates the administrative procedures in the instruction manuals which constitute an important part of the "working law" of this administrative agency. See NLRB v. Sears, 421 U.S. 132 (1975).
- (2) Pursuant to IRC §6001 and 26, CFR §1.6001-1(d), notice to file a tax return must be issued by the District Director in order to create a legal duty on the part of the individual to file such a return. Service of Notice is a prerequisite to filing returns.

A filing requirement only stems from liability. Liability cannot accrue without notice being served by the District Director. Congress authorized the Secretary to choose the method of notice at 26 USC §6001. The choice lay between personal service and legislative regulations. The Secretary promulgated regulations, which delegated notice authority to the District Director, allowing him discretion in deciding who should receive notice. Regulations at 26 CFR §1.6001-1(d) et seq. are both interpretive and directive in nature. The Treasury Regulation at 26 CFR §1.6001-1(d) clearly requires the District Director to personally serve notice on individuals. Therefore, where no notice was served by the District Director, the individual is under no obligation to file. It is a clearly established principle of law that Due Process demands and begins with Notice. Absent proof of notice, the MFR should read "MFR-0"<sup>19</sup> as no filing requirement can legally exist. Moreover, as previously noted, a filing requirement cannot attach to an Invalid SSN.<sup>20</sup> See MFR Attachment.

#### 4. **Transaction Code 971: Data fraudulently posted to incorrect TIN.**

The definition of TC 971 set forth in both the ADP IDRS Document 6209 manual and the Law Enforcement Manual explains that this particular code is used to post data to either an incorrect TIN or to an incorrect Taxable year.<sup>21</sup>

"... used to post identifying XREF TIN/Tax period data whenever a TC 150 or Amended/Duplicate return has posted to an incorrect TIN/Tax Period."

This application of the TC 971 code provides further confirmation that the Invalid Social Security Number Freeze (previously identified herein as the "VAL-1" Freeze Release) is, in fact, caused by an incorrect TIN as applied to the Requestor's account. The Requestor's IMF shows the TC 971 code posted to the Entity Module of Requestor's IMF Complete and therefore applies to each and every taxable year from the very beginning. Accordingly, the TC 971 code cannot possibly have been intended to enable the posting of data to a specific "incorrect" taxable year since it applies to all taxable years. From its definition, this code is only used to post data to an IMF that contains an incorrect TIN.

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<sup>19</sup> IRS Manual, ADP IDRS Document 6209 at page 8-72.

<sup>20</sup> No explanation can be made to justify how a filing requirement can be attached to an Invalid Social Security Number.

<sup>21</sup> ADP IDRS Document 6209, page 8-54 and Law Enforcement Manual 3(27)(68)(12).(13).



The Requestor hereby requires the posted code 971 immediately be expunged from the Requestor's IMF. See TC 971 Attachment.

5. **Transaction Code 425, Reversed Examination Request.**

Another sequence of erroneous postings to the Requestor's IMF is the TC 425 and TC 424 entries. The TC 425 is a reversal of a TC 424. However, the TC 424 is not posted to this Requestor's IMF. The TC 424 is defined as an Examination Request.

The TC 424 is defined within "ADP IDRS Document 6209" at page 8-24 as:

"Examination Request Indicator"

"Return referred to Examination or Appeals Division. Generates Examination opening inventory information. Deletes record, if present, from DIF file. This transaction can also be generated for IMF when an IRP Underreported Case is referred to Exam. Generated as a result of input through PCS"

IRM Exhibit 4.4.1-1 (02-08-1999) Reference Guide, states:

"Invalid Segment -- An "\*" after a SSN identifies an account that resides on the invalid segment of the Master File. The invalid segment contains accounts in which the SSN and name combinations do not match the Social Security Administration (SSA) records. Even though you may send a TC424 to Master File with an \*, if the name control is valid on the DM1 tape, Master File will send the TC424 to the valid segment." (Emphasis Added) See TC 425 Attachment.

6. **Substitute for Return, SFR 150; Substitute for Return, Generated through computer manipulation.**

The procedures involved in the development and posting of the incomplete and unsigned Substitute For Return, Form 1040, are not only devoid of legal authority but they also include so many deceptive manipulations of the Master File computer software as to amount to outright fraud. The fraudulently manipulated record results, in large part, from the deliberate omission of pertinent information in the IMF. For example, the intentional failure to give credit for taxes previously paid as withholding taxes or previous payments of estimated taxes.

This Transaction Code (TC) along with its DLN, 49210-195-25004-1, 292210-243-25541-3, 29210-243-25542-3, 29210-888-00000-4, 29210-888-00000-5 for tax year 1999, 2000, 2001, 2002, 2003 is defined as an original Fully Paid: zero amount Form 1040A, W-4 Penalty Case and a SFR Form 1040. These three definitions create another paradox. The physical SFR is an incomplete and unsigned Form 1040, recorded on the IMF as a Fully Paid Form 1040A making a W-4 Civil Penalty assessment, all on the erroneous presumption that Requester was required to file a return. IRM 5400 establishes that all SFR 150 DLN's must have a Tax class (TC) 2, document code (DC) 10 and blocking series between (BS) 000-299 and that this combination always signifies a W-4 penalty assessment.

The Form 1040 is for the 'income' tax in Subtitle A of Title 26 USC and has nothing to do with Employment taxes that are found in Subtitle C. W-4 penalties can only arise out of a Subtitle C, Employment tax, which is not related to the Income tax in Subtitle A, Section 1.

The IRS computer software was originally designed and programmed having dual meanings for some codes. The manipulation of these codes has resulted in systemic fraud.

The SFR development process starts with a newly created Non-Master File (NMF) because the “DC 10”, appearing on a NMF, identifies a Form 1040. The end result of the SFR Form 1040 process, when posted to an IMF, is identified by the DC 10 as a Fully Paid Form 1040A. The reason for this conversion from a Form 1040 to a Form 1040A is to trick the computer software into allowing the posting of an Examination TC 420 that, in turn, allows for the posting of Additions to Tax with a TC 300.

The SFR is then merged into the IMF via the NMF. The NMF does not have the computer verifications as found in the IMF. The NMF definition for a DC 10 is a Form 1040; however, the IMF definition of the DC 10 is a Fully Paid Form 1040A. The relevant IRM sections specify the conduct and implementation, application and appropriateness of the transactions codes and entries by the IRS. The lack of adherence to the letter of the law and the codes by the IRS demonstrates the institutionalized and systemic fraud perpetrated, with impunity, upon the Requestor.

Title 26 USC §6211 (a)(1)(A) defines the term “deficiency”. Section 6211 (a)(1)(A) reads as:

“...(T)he term "deficiency" means the amount by which the tax imposed by subtitle A or B, or chapter 41, 42, 43, or 44 exceeds the excess of –

(1) the sum of

(A) the amount shown as the tax by the taxpayer upon his return, if a return was made by the taxpayer and an amount was shown as the tax by the taxpayer thereon, ...”  
(*Emphasis Added*)

Obviously, a “deficiency”, as defined by Congress, requires that a return be filed by the taxpayer. The Treasury regulation at 26 CFR 301.6211-1(a) reads:

“... If no return is made, or if the return (**except a return of income tax pursuant to §. 6014**) does not show any tax, for the purpose of the definition ‘the amount shown as the tax by the taxpayer upon his return’ shall be considered as zero.” (*Emphasis Added*)

The Treasury regulations do not authorize the IRS preparation of a zero SFR return. Title 26 USC §6014 authorizes the Secretary of the Treasury to compute a tax only where the taxpayer has filed Form 1040A and has asked the IRS to compute the tax. But §6014 does not authorize the Secretary to change, recalculate or manipulate a Form 1040 showing zero tax liability.

Title 26 USC §6211(b)(3) reads:

“The computation by the Secretary, pursuant to §6014, of the tax imposed by **chapter 1** shall be considered as having been made by the taxpayer and the tax so computed considered as shown by the taxpayer upon his return.” (*Emphasis Added*)

The corresponding Treasury regulation at 26 CFR §301.6211-1(c) reads:

“The computation by the Internal Revenue Service, pursuant to §6014, of the income tax imposed by **Subtitle A** shall be considered as having been made by the taxpayer and the tax so computed shall be considered as the tax shown by the taxpayer upon his return.” (*Emphasis Added*)

The Treasury regulation appears to authorize a computation beyond the meaning of the statute. The statute clearly recognizes the need for a return to be submitted and signed by the taxpayer personally. The regulation at 26 CFR §301.6211-1 was not promulgated so as to have the force and effect of law; it is solely interpretive of the statute. It is not legislative in character.

Any act by the IRS that exceeds its statutory authority is an extra legal action and constitutes a colorable offense cognizable by the courts.

Under 26 USC §6014 the taxpayer fills out the basic information on a Form 1040A, signs it and sends it to the Service Center authorizing the IRS to compute the tax. So long as there is a signature from the taxpayer and he or she has concluded that a liability exists this is a perfectly legal procedure. This explains the switch by the IRS of the document codes when the SFR Form 1040 gets recorded onto the official record (IMF) as a Form 1040A.

Under 26 USC §6020(a), the IRS has statutory authority to prepare a return only when the individual taxpayer provides information and authorization. Under, 26 USC §6020(b) the IRS has authority to prepare only business returns without taxpayer authorization. The authorized list of Forms delineated in the IRM for which the IRS is authorized to prepare substitutes does not include a Form 1040 or Form 1040A. None of the aforementioned requisite conditions exists allowing any return, zero or otherwise, to be filed on behalf of Requester. Moreover since the Invalid Social Security Number Freeze is posted to this account no determination or transaction can be made. See SFR Attachment.

#### 7. **ACTIVITY CODE: ACTY-CD> 532:**

The Activity Codes (53X) are generated by Examination, however, they only pertain to those having a Federal Nexus. Requestor does not, nor does he represent anyone having a Federal Nexus to the best of his knowledge. See Activity Code Attachment.

The foregoing internal codes are found within Requestor's Permanent Records:

Item	Code	IMF Page Location
1.	VAL-1;	IMF Page 1.
2.	Justification-1;	IMF Page 1.
3.	MFR-01;	IMF Page 1.
4.	TC 971;	IMF Page 1, 3, 4,7, 10, 12, 13, 16, 17
5.	TC 425;	IMF Page 2, 6, 9, 12, 15, 18, 19
6.	SFR 150;	IMF Page 8, 11, 14, 17, 19
7.	ACTY-CD 532	AMDISA Page 1.

#### **Summation**

Although all of the codes in the IMF are not listed, the chart immediately above reflects those with which the Requestor has the most discrepancy and wishes to be immediately expunged. These major codes verify that the IMF is totally invalid and, therefore, all of the internal codes found on the Requestor's IMF MCC TRANSCRIPT-COMplete are in error and require immediate correction.

For the above-stated reasons, the Requestor respectfully requires the designated systems manager of the Ogden Service Center and the Director of the Martinsburg Computer Center to immediately address and amend Requestor's Individual Master File by expunging the foregoing flagrant errors from the Requestor's IMF.

Requestor states IRC § 7852(e), 26 U.S.C. §7852(e), is inapplicable and does not prohibit the correction of the flagrantly erroneous postings discussed herein.

This Request does not pertain to the "determination" of "liability" for a tax but the record

correction relates only to such matters as the routine processing of returns, processing information, accounting records, payment records and the classification and determining of the status of the individual Requestors within the meaning of Title 26 of the United States Code. As used by the IRS, the IMF has acquired the character of a system of financial records or accounting records (accounts receivable) rather than a system of tax records.

I am also requesting that you make a full disclosure of how this Entity, identified by its posting upon the IMF, account number 412-29-0551 and named, FORD, was created and production of the signed authorization for this fictitious entity.

Thank you for your assistance in facilitating the correction of a badly distorted and manipulated IMF. Should you choose not to correct the Requestor's IMF immediately and notify Requestor in writing of such correction, Requestor may be forced to seek legal remedy for the erroneous and incomplete IRS records which have caused Requestor economic damage and inhibition of Requestor's commercial ability.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry S. Ford". The signature is fluid and cursive, with the first name "Barry" being the most prominent part.

Barry S. Ford, Requestor

Enc. Attachment List